



APR
APR

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: George H. HOFFMAN, et al.

Title: SYSTEM, METHOD AND COMPUTER PROGRAM
PRODUCT FOR A SUPPLIER INTERFACE IN A SUPPLY
CHAIN MANAGEMENT FRAMEWORK

Appl. No.: 09/815,731

Filing Date: 03/23/2001

Examiner: Florian M. Zeender

Art Unit: 3627

APPELLANT'S REPLY BRIEF

Mail Stop: Appeal Brief - Patents
Commissioner for Patents
Washington, D.C. 20231

The following is Appellant's Reply Brief, submitted under the provisions of 37 C.F.R. 1.192 in response to the Examiner's Answer dated March 22, 2005.

Applicants continue to stand on their Appeal Brief. However, certain arguments have been advanced by the examiner that bear response.

Group 1:

A key element in claim 1 and other claims in Group 1 is the limitation

"comparing an amount of raw materials sold to a store and the predicted amount of raw materials for the given level of sales of goods, to thereby provide an indication of a level of discrepancy."

The examiner states that his principle reference Hafner does not teach this claimed comparison. The examiner states that this limitation "is anticipated" ?? by Salvo (U.S. 6,341,271). The examiner states that Salvo et al. at column 11, line 13 teaches monitoring

late delivery and that this means quantity. The examiner states as follows: “However, as stated above, Salvo does focus, at least partially, on quantity as the reference teaches checking ‘late deliveries’ (Salvo et al. Col. 11, line 13), which means a ‘quantity’ has not been received.”

The entire context (column 10, line 62 – column 11, line 17) in which column 11, line 13 resides is as follows:

Yet another benefit from the inventory management system 100 arises from its capability of permitting evaluation of products produced by the processor 102 dependent on the inventory shipment, also known as an inventory “lot”. In silo 1104 of FIG. 1, the inventory 150 comprises two different lots. For example, lot 105 is from a different vendor than lot 107. Alternatively, the lots 105 and 107 may be from the same vendor, but different shipments. Since the amounts of lots 105 and 107 are known, as they were ordered through the inventory management system 100, the product’s inventory and its source are known.

These lots may also be identified, as discussed above. If a product possesses a fault and the fault is determined to arise from the inventory, plant management can trace the inventory to a particular vendor. Therefore, corrective action can be taken. If the inventory management system 100 indicates that a particular vendor’s inventory is historically faulty, such as, but not limited to, poor inventory quality or late deliveries, or the vendor is otherwise unsatisfactory, plant management can terminate the vendor 200. This vendor termination will increase productivity and quality of the manufacturing site 103, since high quality inventory will be properly controlled.

However, late delivery is delivery none-the-less, and the focus of these paragraphs in Salvo is correcting vendor product problems. It is an unbelievable stretch to consider that one of ordinary skill in the art at the time of the invention would be motivated to modify the Hafner supplier-retailer transaction system with teachings about late delivery from the Salvo et al. silo inventory management system to come up with the claimed comparison step, which, in fact, does not relate to a supplier-retailer sales transaction, but rather the claim element compares an amount of raw materials already sold to a store to a predicted amount of raw materials for the given level of sales of goods that actually occurred (*comparing an amount of raw materials sold to a store and the predicted amount of raw materials for the given level of sales of goods, to thereby provide an indication of a level of discrepancy*). This claim element does not make sense in either Hafner et al. or Salvo et al. The obvious point of the

claim element, is a store manufacturing process issue (whether or not these exact words are stated in the claim), namely the amount of raw material the stores receives (*sold to a store*), versus the amount that the store should have used for the given level of sales reported by the store (*the predicted amount of raw materials for the given level of sales*). The examiner's problem is that he has not explained why one of ordinary skill in the art at the time of the invention when provided with the Hafner et al. system, which has a focus on supplier-retailer sales transactions, would include the claimed "*comparing*" step, much less why he/she would look to Salvo et al., which is focused on monitoring levels in a silo and monitoring the quality of what is received from the supplier to the silo. Neither reference has any teaching relating to a store manufacturing process or why one would want this comparing step in their process. Even using applicants' specification as a blueprint (which is forbidden), one of ordinary skill in the art can't come up with such a comparison step using these two references.

Note that this claim language is looking backward and is focused on the manufacturing process at the store, not the supplier-retailer sales process or forecasting for that sales process, i.e., the claim element is not comparing a predicted level of sales of a finished product to actual store sales data because the claim is not looking to fix a problem with the forecasting mechanism. Rather, the claim element is focused on looking at a predicted amount of raw materials for the given level of sales of goods (a quantity that had to be calculated in a preceding step), and comparing that calculated quantity to "*an amount of raw materials sold to a store*", not materials sold by the store. None of Hafner et al., Salvo et al., or Yamamoto deal with this issue, so that not only is there no motivation to combine these three disparate references by one of ordinary skill in the art at the time of the invention, but the combination is still deficient. There is simply no recognition of the problem by any of these references. A general all-purpose motivation to "increase productivity and quality" that could apply to any process anywhere is not sufficient in the law. This is particularly so, as applied to Hafner et al., since this claim limitation has no impact on productivity or quality of the supplier-retailer transaction.

A second element in the Group 1 claims is the limitation

receiving data from a plurality of stores of a supply chain utilizing a network, the data relating to an amount of goods sold by the stores'.

The examiner states that the “*plurality of stores of a supply chain*” aspect of the limitation (which goes to applicants invention operating for a supply chain) is met by the language “at least one supplier and at least one retailer” at column 2, lines 42-45 of Hafner et al. However, the Hafner et al. disclosure provides embodiments only for transactions between a single buyer and a single supplier. There is no teaching in Hafner et al. which would suggest to one of ordinary skill in the art at the time of the invention as to how to modify the Hafner system to have a supplier handle multiple stores in one transaction, or even that it should or could be modified.

A third element in the Group 1 claims is the aggregation step, which aggregates the antecedent “data” from the receiving step from the “*plurality of stores of the supply chain . . . the data relating to an amount of goods sold by the stores.*” The claim element reads as follows:

b) *aggregating the data in a database.*

The examiner states that Hafner et al. discloses this limitation at column 5, lines 27-33, as follows:

The "populate inventory" function may be, for example, a batch (or online) computer program written in C++ or other programming language which formats point of sale information for storage in inventory activity file 245. This function directs database manager 235 to store the inventory adjustment and point of sale information in inventory activity file 245.

This quotation cited by the examiner relates to batching data. It is dealing with only a single store, not “data from a plurality of stores of the supply chain.” Note also that “batching” is generally done prior to transmission.

It is submitted that at least these three limitations are missing individually. Moreover, there is no motivation to combine these references to achieve applicant’s claims combination invention. The combination of elements in claim 1 must be examined as whole, which was not done.

The foregoing arguments apply equally to each of Claim Groups 1, 2, 3, 4, 5, and 6.

Groups 7, 8, 9

Claim 16 includes most of the limitations of claim 1, so that the arguments for the same claim limitations present from claim 1 apply equally to these groups of claims. Claim 16 does not include the limitation of performing a comparison step, but instead has the limitation of a display step wherein the quantities of claim 1, i.e., the “amount of raw materials sold to a store” and the quantity “a recipe-predicted forecast for the raw materials based on the amount of the goods sold by the store,” are displayed on the same page or screen to thereby permit a visual comparison by the display recipient. Additionally, a limitation is provided relating to determining a percentage cost of the goods attributable to the raw materials. The limitations read as follows:

g) *displaying an amount of raw materials sold to a store on a same page or screen as a recipe-predicted forecast for the raw materials based on the amount of the goods sold by the store, to thereby permit a comparison and determination of variance due to errors or loss; and*

h) *determining a percentage of cost of the goods attributable to the raw materials.*

These limitations and similar limitations in claims 17 and 18 are not found in any of the references and the references do not even recognize the problem to which this claim is directed relating to the manufacturing process itself at the store, not the forecasting process. These claims, with the limitations recited above in combination with the other limitations of the claims have not been examined as a whole.

For the foregoing reasons, it is submitted that the examiner’s rejection are erroneous, and reversal of the applied rejections is respectfully requested.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of

Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

Date: April 13, 2005

By  _____

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5485
Facsimile: (202) 672-5399

William T. Ellis
Attorney for Applicant
Registration No. 26,874